



OFFICE OF
Police & Crime
Commissioner
for Cheshire

Freedom of Information Act 2000

Internal Review Procedure

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Related Documents
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1. INTRODUCTION

- 1.1. The purpose of this document is to set out the internal review procedure, adopted by Office of the Police and Crime Commissioner for Cheshire (OPCC) pursuant to the Freedom of Information Act 2000.
- 1.2. This procedure is based on the Code of Practice on the discharge of public authorities' functions under Part 1 of the Freedom of Information Act 2000 issued under section 45 of the Act. It is also based on procedural guidance issued by the Information Commissioner's Office.
- 1.3. This internal review procedure will be put into operation on receipt of a written reply (including by e-mail) from any person, which expresses dissatisfaction with the OPCC's:-
 - 1.3.1. handling of a request for information;
 - 1.3.2. decision whether to release information; or
 - 1.3.3. compliance with its publication scheme.
- 1.4. Any such communication should be treated as a complaint and handled in accordance with this procedure, even if the complainant does not expressly state that he/she wants the OPCC to conduct an internal review.
- 1.5. In case of complaints received orally, the person who receives the complaint must inform the complainant of the requirement to provide it in writing.

2. DEFINITIONS

In this document:-

- 2.1. "OPCC" means Office of the Police and Crime Commissioner for Cheshire.
- 2.2. "The Commissioner" means the Police and Crime Commissioner for Cheshire.
- 2.3. "Staff" means direct employees of the OPCC.
- 2.4. "FOI" or "the Act" means Freedom of Information or Freedom of Information Act 2000.

3. PROCESS DESCRIPTION

- 3.1. The person who receives the complaint must, on the same day that the complaint is received:-
 - 3.1.1. log the details of the complaint into the Complaint Log; and
 - 3.1.2. copy the complaint to the Chief Executive of the OPCC. If the responding officer to the initial FOI request was the Chief Executive, the complaint will be forwarded to the Deputy Commissioner.

- 3.2. The Chief Executive or Deputy Commissioner will then:-
 - 3.2.1. acknowledge receipt of the complaint (within 2 working days of it being received by the OPCC);
 - 3.2.2. inform the complainant of the OPCC's target date for replying, which should be within 20 working days following the receipt of the complaint;
 - 3.2.3. provide the complainant with a copy of this procedure and details on how to contact the Information Commissioner;
 - 3.2.4. assess the nature and the complexity of the initial request and the OPCC's response to it, together with the resulting complaint, and decide on the type of internal review that needs to be undertaken and appoint appropriate investigating officer if necessary; and
 - 3.2.5. forward the complaint to the responsible investigating officer together with the original request and response.

- 3.3. In the interest of impartiality, the investigating officer cannot be the person who initially responded to the Freedom of Information request (this is the person who signed the reply to the request).
- 3.4. Simple reviews should be dealt with within 20 working days of receiving the complaint, and complex reviews (particularly where it is necessary to reconsider the public interest) should be completed within 40 working days of receiving the complaint.

- 3.5. The officer who handled the original request will be responsible for ensuring that the investigating officer is provided with all relevant information. Where the complaint relates to information that has previously been withheld, the officer who handled the original request will need to ensure that the investigating officer is provided with:-
 - 3.5.1. a copy of the original request;
 - 3.5.2. any other relevant correspondence with the complainant;
 - 3.5.3. an explanation of what information was released in response to the original request, what was withheld and why was it withheld; and
 - 3.5.4. a copy of the complaint.

- 3.6. Following receipt of all relevant information as outlined in paragraph 3.5, the investigating officer will, having taken account of the overriding principles in section 5 of this procedure, carry out the following actions:-
 - 3.6.1. conduct the appropriate internal review within 20 working days, taking into account any views expressed by the complainant;
 - 3.6.2. where it becomes apparent that the determination of the complaint will take longer than 20 working days, which should only arise where the issues surrounding the complaint are complex, the investigating officer must inform the complainant of the delay, explaining the reason(s) for it and set a secondary deadline by which to respond. This deadline should be within 40 days as laid out in paragraph 3.4;
 - 3.6.3. ensure that the Communications and Consultation Officer and/or Legal Services Department are involved, where appropriate;

- 3.6.4. ensure that proper records are kept of the complaint and the internal review. These will assist in any investigation by the Information Commissioner, should the requestor complain to him;
- 3.6.5. communicate the outcome of the review to the officer who handled the original request (and Communications and Consultation Officer and/or Legal Services Department if involved), highlighting any issues which may have wider implications for the OPCC; and communicate the outcome of the review to the applicant.

4. REVIEW OUTCOMES

- 4.1. Where outcome of the internal review is:-
 - 4.1.1. a determination that FOI request handling procedures have not been properly followed – the investigating officer should apologise on behalf of the OPCC to the complainant in writing. The investigating officer should also report any mishandling issues to the Commissioner, to ensure that steps are taken to prevent similar errors occurring in the future;
 - 4.1.2. a determination that information which was withheld should be released – the investigating officer should inform the complainant in writing of this determination and enclose the information. If the information cannot be enclosed at the time, the reviewer should inform the complainant when the information will be released to them, which should be as soon as practicable;
 - 4.1.3. a determination to uphold an earlier decision to withhold information – a Section 17 refusal notice must be issued. The investigating officer should inform the complainant in writing with the issue of a notice under Section 17 of the Act. The notice should state that fact, specify the exemption in question and state (if that would not otherwise be apparent) why the exemption applies. The complainant should also be notified of their rights to appeal to the Information Commissioner, under section 50 of the FOI Act. Details on how to appeal (including full contact details for the Information Commissioner’s office) must also be provided to the complainant; and
 - 4.1.4. a determination that the OPCC’s publication scheme has not been complied with – the investigating officer will issue an apology in writing on behalf of the OPCC to the complainant. Steps should be taken by the OPCC to ensure compliance with the scheme in the future.
- 4.2. If the outcome of the complaint is mixed, e.g. a determination that some of the information should be released, but some withheld, the investigating officer should follow a mixture of the outcomes mentioned above, as appropriate.
- 4.3. The investigating officer should discuss all decision made with the officer who dealt with the original application, to build a full picture as to how and why previous decisions were made.
- 4.4. The investigating officer should not feel bound by any views on the complaint expressed by those who dealt with the original request. These

views should be treated as background information, rather than a suggestion of how to handle the complaint.

5. OVERRIDING PRINCIPLES

- 5.1. These overriding principles apply to all internal reviews.
- 5.2. The internal review stage is an opportunity to consider a case completely afresh and should not be treated as an appeal, but as a chance to ensure that the OPCC made the right decision on the original request.
- 5.3. The internal review must be a fair and impartial mean of reviewing decisions made during the original consideration of whether to release information.
- 5.4. As a minimum, all internal reviews must consider the information released against the information requested and make a full review of the papers associated with the original application.